

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, December 10, 2014, 1:00 p.m., Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Cathy Beecham, Tracy Corr, Dennis Scheer, Michael Cornelius, Chris Hove, Maja V. Harris, Jeanelle Lust, Lynn Sunderman and Ken Weber; David Cary, Steve Henrichsen, Brian Will, Tom Cajka, Paul Barnes, Christy Eichorn, Ed Zimmer, Brandon Garrett, Sara Hartzell, Stacey Hageman, Jean Preister and Amy Huffman of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission meeting

Chair Jeanelle Lust called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

Lust acknowledged the untimely passing of Director Marvin Krout, stating that he was a tremendous asset to the City and had a unique way of bringing people together – developers, neighbors, etc. – showing leadership in making the City a great place to live. She believes that the numerous awards that Lincoln has received in the last few years were because of Marvin's leadership and what he has done for this city. A period of silent meditation was observed in memory of Marvin Krout.

Lust then requested a motion approving the minutes for the regular meeting held November 12, 2014. Hove moved approval, seconded by Cornelius and carried 8-0: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Hove and Lust voting 'yes'; Weber abstained).

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

December 10, 2014

Members present: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust.

The Consent Agenda consisted of the following items: **CITY TEXT AMENDMENT NO. 14019 and COUNTY TEXT AMENDMENT NO. 14020; ANNEXATION NO. 14006, CHANGE OF ZONE NO. 14031 and SPECIAL PERMIT NO. 14050; CHANGE OF ZONE NO. 14030; SPECIAL PERMIT NO. 14048 and STREET & ALLEY VACATION NO. 14011; STREET & ALLEY VACATION NO. 14010; and STREET & ALLEY VACATION NO. 14012.**

There were no ex parte communications disclosed.

Item No. 1.5, Street & Alley Vacation No. 14010, was removed from the Consent Agenda and had separate public hearing.

Cornelius moved approval of the remaining Consent Agenda, seconded by Hove and carried 9-0: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust voting 'yes'.

Note: This is final action on Special Permit No. 14050 and Special Permit No. 14048, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days.

STREET & ALLEY VACATION NO. 14010
TO VACATE THE EAST-WEST ALLEY BETWEEN
“O” STREET AND “N” STREET FROM THE WEST
LINE OF 23RD STREET TO THE EAST LINE OF THE
ANTELOPE CREEK CHANNEL.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 10, 2014

Members present: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

There were no ex parte communications disclosed.

This application was removed from the Consent Agenda and had separate public hearing.

Staff presentation: **Christy Eichorn of Planning staff** explained that this is a request to vacate an existing alley just east of the Antelope Valley Creek and just west of South 23rd Street, south of O Street. Catholic Social Services owns the adjacent properties. The City owns one lot at 2143. Catholic Social Services is looking to do a cafe/coffee shop in the building at 2215. Part of that coffee shop will include a drive-through facility and in order to meet the stacking requirements, they would need to cross this alley, which is considered a public right-of-way and design standards do not allow them to cross that alley. The alley will never continue over Antelope Creek. The City will retain an easement over the right-of-

way and there will be a common access easement to be used as a driveway for the abutting properties.

Proponents

1. **Bill Meduna**, appeared on behalf of **St. Joseph Institute and Catholic Social Services**, the applicant and petitioner. He referred to the Analysis in the staff report which calls for the common access easement for all adjacent lots. Meduna explained that one of the purposes of requesting the vacation of this alley is to limit the amount of traffic in front of the building. Catholic Social Services has many clients coming in and out of their offices at 2241 O Street. He wondered whether there is any way that the vacation can happen without including the common access easement.

Lust did not believe this would be possible, but she suggested that the petitioner meet with staff and the Commission will defer further discussion and action until later in the meeting.

When this public hearing was reconvened, Eichorn indicated that she had met with the applicant. She further explained that the purpose for the common access easement is because there are several platted lots that front on O Street. If those lots are redeveloped, the city wants to insure that access to those lots will not have to be provided off of O Street. Eichorn believes the applicant now understands. The applicant does own all properties on both sides of the easement.

There was no testimony in opposition.

Response by the Applicant:

Meduna confirmed that his concerns have now been alleviated.

ACTION BY PLANNING COMMISSION:

December 10, 2014

Cornelius moved to approve a finding of conformance with the Comprehensive Plan, seconded by Scheer.

Lust believes this to be a good use of the property and a good resolution of the concerns of the applicant.

Motion carried 9-0: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust voting 'yes'. This is a recommendation to the City Council.

**COMPREHENSIVE PLAN AMENDMENT NO. 14008;
CHANGE OF ZONE NO. 14028, FROM R-1 TO P PUBLIC USE,
AND FROM R-1, R-3 AND P PUBLIC USE TO H-4 GENERAL COMMERCIAL;
SPECIAL PERMIT NO. 14045, PLANNED SERVICE COMMERCIAL
FOR MINI-STORAGE; and STREET & ALLEY VACATION NO. 14009
TO VACATE VIEWPOINT DRIVE,
ON PROPERTY GENERAL LOCATED AT
SOUTH 84TH STREET AND KARL RIDGE ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

December 10, 2014

Members present: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust.

Staff recommendation: Approval of the comprehensive plan amendment and change of zone; conditional approval of the special permit; and a finding of conformance with the Comprehensive Plan on the street and alley vacation.

There were no ex parte communications disclosed.

Staff presentation: **Paul Barnes of Planning staff** presented the proposal, indicating that this property has been designated as Urban Residential on the Future Land Use map for quite some time. Since we are looking at a commercial development for this site and it is greater than 5 acres in size, it is typical policy to process a comprehensive plan amendment to reflect that change on the land use designation. Although the property has been recommended to be shown as residential, the staff believes that commercial uses can be appropriate for this site with certain restrictions and considerations with the site planning and landscaping.

Along with the comprehensive plan amendment, Barnes stated that the staff is supporting the change of zone and special permit, which further take a look at the development and restrict not only uses but things like siting of the buildings. The change of zone and special permit go hand-in-hand, including a request for H-4 commercial zoning which allows the developer to apply for a Planned Service Commercial special permit. The Planned Service Commercial special permit can restrict what types of uses are allowed.

Barnes advised that the special permit would allow up to 130,000 sq. ft. of mini-storage. The access to this type of development will not be through the adjacent residential neighborhood, but rather near South 84th Street, which is an arterial. There is a connection off South 84th Street on Karl Ridge Road.

A previous request for residential units on this property was denied by the Planning Commission due to the location of a pipeline hazard area, limited access to the site and

opposition from the surrounding neighbors. Thereafter, the city requested proposals for development on this site. This proposal was presented to the neighborhood and the neighborhood supports this development.

Barnes further pointed out that the commercial use near the residential area allows flexibility to make sure the development is compatible with the nearby residents in the area. The access will be limited to one point and some additional landscaping and screening will be provided between the residential units and this commercial development. The proposal from the developer includes a 10' wall as well as a wrought iron fence and some trees. The conditions request that the landscaping be enhanced.

With regard to the special permit for Planned Service Commercial, Barnes submitted a recommendation by the staff to amend the conditions of approval. Watershed Management is now satisfied, thus the staff is recommending that the proposal can move forward to the City Council. The proposed amendments are as follows:

RECOMMENDATION:

CHANGE OF ZONE NO. 14028
SPECIAL PERMIT NO. 14045

~~Conditional Approval~~
Approval
Conditional Approval

WAIVERS:

1. Per Section 27.72.040 of the Zoning Code, Height and Area Requirements. To reduce the rear and side yard setbacks.

Conditional Approval

2. Per Chapter 2.05 of the Design Standards, Stormwater Drainage. Waive the requirement that post development flows be less than pre-development flows for an on-site detention pond.

~~Denial~~ Conditional Approval

~~1. The grading and stormwater management plans shall be approved by the Watershed Management Division, prior to scheduling these applications on a City Council agenda.~~

1.4 The City Council approves associated request:

1.1.4 Amendment of the Lincoln/Lancaster County Comprehensive Plan to show this property as a "Commercial" designation

1.4.2. Street vacation of Viewpoint Drive

1.3 Change of Zone No. 14028

- 2.6 Add a note to the plan that states, "The Stormwater Detention Calculations report dated October 15, 2014, and revised December 1, 2014, is a supplement to the special permit for Planned Service Commercial."
- 2.7 Provide hard copies of the revised drainage report to the satisfaction of the Watershed Management Division.

Regarding the request to vacate Viewpoint Drive, Barnes explained that Viewpoint Drive is a stub street/public right-of-way that is located off of Karl Ridge Road. The intent of the right-of-way is to provide access back to the larger parcel for future development. Essentially, by vacating it at the request of this developer and the adjacent property owners, the public right-of-way will become a private driveway and will still serve as access to the development.

Beecham commented that traffic through the residential neighborhood had been a concern in the past. Are we looking at large trucks coming into the mini-storage, or is it more likely to be smaller trucks? She thinks that perhaps travelers going north on 84th might go through the neighborhood. Barnes explained that the staff did not require the developer to do a full traffic study, but the staff and the applicant did specifically discuss the types and frequency of the vehicles, which will be addressed in the applicant's testimony. There would be potential for larger trucks but more frequently it would be smaller vehicles.

Corr asked for an explanation about Outlot A currently being non-buildable, but yet it appears that there will be some units on Outlot A. Barnes explained that platted outlots are generally non-buildable and typically reserved for open space, drainage, etc. In this case, Outlot A was reserved for some type of future use. In order to build the units as proposed, a final plat is required to designate that lot in order to get a building permit. Corr assumes that is acceptable and that Outlot A was for water detention. Barnes pointed out that this proposal includes a detention facility in the northwest portion of the site which will carry and hold most of the detention for this development, and there are also some underground facilities connecting to South 84th Street. Corr asked why Outlot A was designated as non-buildable in the first place. Barnes suggested that the owner may have wanted to reserve it for a period of time. Corr then sought to confirm that there are no existing topographic issues making that outlot non-buildable. Barnes concurred.

In regard to the developer's plans to construct a 10' wall, Harris was interested in what the minimum screening requirement would normally be for this type of development. She referred to the design standards, i.e., at least 60% up to 10 feet. What would the minimum be for this type of development? Barnes stated that the staff would follow the design standards for screening which would require screening between the perimeter of the commercial use and the adjacent residential properties. There is a formula in the design standards that is followed. By providing the 10' wall, essentially they are screening 100% from the adjacent property. Harris asked if 10' would be the maximum for whatever would have been developed. Barnes responded that the "60% up to 10 feet" is the design

standard. Harris then assumed that the developer is doing the maximum screening and they would never be asked to do anything above ten feet. Barnes acknowledged that the staff is not recommending any additional height. There is some grade difference, so from properties on the west, the wall may look taller than 10', but the recommendation includes additional plant material throughout the site to provide the minimum requirement.

Proponents

1. Rick Krueger, President of Krueger Development, testified as the applicant.

Krueger took a moment to recognize Marvin Krout, stating that he has been around for almost 40 years and he considers Marvin to have been the best of the planning directors he has worked with in those 40 years, and he is very sad that Marvin is no longer with us.

Regarding the proposal at South 84th Street and Karl Ridge Road, Krueger stated that the green area shown on the map is the area that will remain grass. In fact, 37% of the site will still be grass when completed. This is a very straight-forward application, and he expressed his appreciation to the staff for creating workable solutions on all of the various issues involved.

Krueger stated that the developer team met with the neighborhood, and there is a letter of support in the record. There were three proposals submitted to the City for this property, and this application received positive vibes from the neighbors. Krueger stated that he has no issues with the city in regard to design items.

With regard to the 10' wall, Krueger explained that the perimeter wall will be located at least at the setback and in some cases back beyond the normal setback so that there would not be any light trespass into the neighborhood; it will provide security for the facility; and by moving it back, the neighbors have more open space. This was also done at South Ridge Village at 27th & Pine Lake between the office use and the residential.

Krueger pointed out that there are two detention cells on 84th Street (series of underground vaults) and the major cell drains through an existing pipe and down through the city storm system. The proposal meets all of the standards for detention.

2. Danielle Smith, regional manager of **Big Red Storage** responded to the concerns about truck traffic. The traffic count indicates that there will be 35 visits (70 trips) per day. As far as large vehicles, there may be some smaller moving trucks, but there will be very limited semi-truck access. She does not believe it will be an issue.

Beecham inquired whether the trucks are Big Red's own fleet or private vehicles. Smith stated that Big Red does has two 14' U-Haul trucks which might be parked there a few months out of the year. Beecham encouraged that the neighbors contact Ms. Smith if there are any problems.

There was no testimony in opposition.

COMPREHENSIVE PLAN AMENDMENT NO. 14006

ACTION BY PLANNING COMMISSION:

December 10, 2014

Hove moved approval, seconded by Scheer.

Lust thinks this is a good project for the location and she is glad the City was able to regroup and have a project come forward that is acceptable to the neighborhood.

Motion for approval carried 9-0: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust voting 'yes'. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 14028

ACTION BY PLANNING COMMISSION:

December 10, 2014

Hove moved approval, seconded by Beecham and carried 9-0: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 14045

ACTION BY PLANNING COMMISSION:

December 10, 2014

Hove moved to approve the staff recommendation of conditional approval, as amended, seconded by Weber and carried 9-0: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust voting 'yes'. This is a recommendation to the City Council.

STREET & ALLEY VACATION NO. 14009

ACTION BY PLANNING COMMISSION:

December 10, 2014

Cornelius moved to approve a finding of conformance with the Comprehensive Plan, seconded by Hove and carried 9-0: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust voting 'yes'. This is a recommendation to the City Council.

ANNEXATION NO. 14007;
CHANGE OF ZONE NO. 14032
FROM AG AGRICULTURE DISTRICT TO
R-3 RESIDENTIAL DISTRICT;
and
SPECIAL PERMIT NO. 14052,
GABLE PINES COMMUNITY UNIT PLAN
AND RESIDENTIAL HEALTHCARE FACILITY,
ON PROPERTY GENERALLY LOCATED AT
ANTHONY LANE AND O STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 10, 2014

Members present: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust.

Staff recommendation: Approval of the annexation and change of zone; and conditional approval of the special permit.

There were no ex parte communications disclosed.

Staff presentation: **Paul Barnes of Planning staff** presented the proposal which includes three associated requests, i.e., annexation, change of zone and special permit for community unit plan and a residential healthcare facility.

Barnes explained that the property is not within the Lincoln City Limits today, but it is abutting and adjacent to the City Limits at this location. The property is within Tier I, Priority B, of the 2040 Comprehensive Plan, thus it is anticipated to become part of the city limits and be developed up to the year 2025. Therefore, the area is appropriate for annexation. Both the sanitary sewer and city water services are planned to be sited and constructed and will be able to serve this property in late 2015 or early 2016. Staff understands that the developer's timeline may be somewhat more aggressive than the City's. If that is the case, the developer will need to work with the city to install the utilities to provide water and sewer to this site.

Barnes also suggested that the change of zone to R-3 is appropriate considering that urban residential is an appropriate land use at this site. There is R-3 to the north of O Street so R-3 is within proximity and appropriate for this development.

With regard to the special permit for community unit plan and healthcare facility, Barnes pointed out that there are two waiver requests: 1) waiver of the private roadway standards on the east-west connection connecting Anthony Lane to the private golf course driveway; and 2) to increase the height of the building from 35' to 42' for the three-story portion of the

building. The waivers are both supported by staff given that the east-west driveway is planned to be reconstructed as part of a NDOR project at some point in the future. That improvement will consolidate the two access points on O Street into one.

Barnes acknowledged that the staff is supportive of the height increase up to 42' given that the 3-story portion of the development is further to the east from the existing single family area on the west side, and staff is recommending that the site plan show building envelopes to make sure the taller portion is constructed to the east.

With regard to the healthcare facility, Barnes explained that the applicant is proposing up to 229 persons, with a mix of housing units including independent living, assisted living and memory care.

The staff submitted proposed amendments to the conditions of approval as follows:

- 2.2 Add a note to the plan that states, "The building footprints and parking spaces shown ~~on the site plan~~ are conceptual and are subject to ~~minor~~ adjustments provided that such footprints stay within the building envelope and parking envelope, respectively, and that the number of residents shall not increase. Specifically, the Developer shall be entitled to revise the site plan for the eastern half of the improvements to reconfigure the building envelope and parking layout, subject to the approval of the Planning Director."
- 2.4 Add a note to the plan that states, "If the 24" water main from N. 98th Street will be built and initially funded by the Developer or the landowner, the City will reimburse the Developer or the land owner, as applicable, in Fiscal Year 2015."
- 2.10 Add the notes to the plan from the Gable Pines Improvements Exhibit dated December 10, 2014.

Beecham inquired whether the sidewalk connects this area to the neighborhood. Barnes confirmed that staff is recommending that sidewalks be shown connecting to the adjacent properties on both sides.

Proponents

1. Tom Huston, 233 South 13th Street, Suite 1900, appeared on behalf of the applicant and developer, **Nelson Construction Development**, and **Good Neighbor Care**, the operator of the proposed healthcare facility. This will be a senior living center. They had envisioned more density of 165 units and a four-story building, but since that time in June, they have decreased the density back to 105 units and a three-story building. The proposal does envision another 12 units at some point in the future.

Huston advised that the developer first contacted the adjacent neighbors in early June, with a meeting on June 16, 2014. There were 25 households represented. Certain commitments were made to the neighbors at that meeting. The proposed development is a senior living facility with low traffic. The developer made commitments 1) not to install any private wells on the property; 2) to support the desire of the neighbors not to be annexed at this time, and if and when the neighbors wish to be annexed, they would still have some control over that process; 3) the heavily wooded floodplain on the western portion will be preserved; and 4) the parking lot will be located north of the structure to help shield any lights from the parking lot. These commitments were confirmed by letter to the neighbors. The developer has reduced the density and the neighbors have been informed of the change in design and access.

Huston also advised that during the summer, NDOR constructed a right turn lane on Anthony Lane, resolving a lot of the access issues.

Huston acknowledged that the amendments to the conditions of approval submitted by the staff adequately address all issues.

With regard to access, Huston stated that when they first met with the neighbors, the developer had contemplated access based on the Hillcrest Drive access point. The subsequent construction by NDOR of the right-turn lane in the O Street right-of-way for Anthony Lane has helped resolve that question. Huston also indicated that the developer does have a traffic study which indicates that a residential healthcare facility is a very low generator of traffic, generating 16 trips during the am peak hour and 26 trips during the pm peak hour. The results of the traffic study determine a service level at this intersection of A or B, which is the same as it is today.

In terms of the site plan, Huston pointed out that there are wings planned for the memory care portion, and the independent and assisting living are in the tower structure. The memory care units are the one-story structures tying into the taller structure.

Huston concluded, stating that this project makes a good use of a property that otherwise would have been a challenge. He anticipates being in front of the City Council in mid-January, 2015, with construction starting in May, 2015. The developer is discussing acceleration of the water and wastewater schedule with the city staff.

Opposition:

1. Rodney Schwartz, 1010 Anthony Lane, testified in opposition. He acknowledged meeting with the applicant on one occasion where he expressed a number of concerns, some of which have been addressed; however, he remains opposed to increasing the height limit. The residents of the neighborhood have a significant concern about the impact of the height with regard to the view and especially the lighting impacting on the residential area. The neighbors are also opposed to the traffic coming through a

residential neighborhood for a substantial period of time until NDOR works out some other sort of access. There are school children waiting for the bus; we do not need any traffic congestion at that point. Schwartz also does not see the consistency of this proposal with the Comprehensive Plan. It is basically a rural environment to the east with the golf course and residential, and it will change the ambiance of the whole neighborhood. He also expressed concern about accelerating the utilities to this development, which he believes will also accelerate the desire of the city to annex the adjacent neighbors. The neighbors do not believe the developer needs the three stories to make the project viable in light of the fact that the developer has many facilities across the country that are single story.

Beecham asked about the location and screening of Schwartz' property. Schwartz stated that his property is the outlot that used to be a nursery. There are still scattered trees throughout the outlot, so aesthetically it is a very nice area. Hillcrest is a golf course with trees. The people on the lower end enjoy the wildlife.

With respect to the bus stop area, Schwartz suggested that the developer had talked about coming in a different way and assured they would not be coming through the residential neighborhood. That appears to have been changed, thus increasing congestion with the traffic and the school children.

2. Michael Sherbak, 205 Anthony Lane, the third house over from O Street, testified in opposition. He does not agree with this type of facility at this location. He pointed out that O Street from east to west at this location is a 60 mph highway. If the people want to turn into Anthony Lane, they will have to slow down on O Street in order to turn left/south. He believes this will likely cause a traffic accident. The parents park their cars on Anthony Lane to drop off their kids when the school bus comes. If you have traffic going east turning into the nursing facility, it will create a problem and there could be a traffic accident.

In addition, Sherbak testified that it is a very beautiful area, with deer, pheasants, foxes and a lot of other wildlife looking east from his home. A lot of the residents that live on East Hillcrest Drive and Anthony Lane are opposed, especially with the highway traffic at 60 mph on O Street.

Sunderman inquired as to the location of the school bus drop-off. Sherbak stated that the cars drive into Anthony Lane, dropping off at about the second house off of O Street. They will turn around either on his driveway or the second house. Sunderman understands the concern about traffic, but couldn't they drive a little bit further? Sherbak responded that he is the third house over and that is where the road starts to curve. They generally park between the first and second house and turn around at the second house. When picking up the kids, they have to turn into a private drive.

3. Jennifer Streeter, 649 East Hillcrest Drive, testified in opposition. 60 mph is how fast people are going until they get to Southeast Community College. There have been accidents turning off Anthony Lane and one or two people have been killed at that

intersection, part of it having to do with the time of day. With the new turn lane, the stop sign has been knocked down twice.

Streeter also noted that the healthcare facility will have three shifts of employees who will be using that area along with the 105 residents that are going to be there. There will also be family members visiting.

If a stop light is not warranted, Streeter would like something done to make it a safer location. The people waiting for the school bus do not live in that area. There are no sidewalks. She is concerned about having to pay for sidewalks when and if her property is annexed. None of the residential owners are interested in being annexed. She is not so much against the facility itself, but she is concerned about the traffic and is fearful of being required to be annexed in the future.

Beecham was interested in knowing about how many cars are parked at one time waiting for the school bus. Streeter thought it would be about five.

Staff questions

Corr wondered at what point the city evaluates lowering the speed limit. **Bob Simmering of Public Works**, advised that the speed limit on O Street/Highway 34 would be in the jurisdiction of NDOR. There are ongoing observations of traffic. The triggers for lowering the speed limit are the access points and traffic volume. Simmering suggested that as there is further development in this area, it is very likely that there will be some reduction of the speed limit. Corr assumed that it would be some time before the speed limit is reduced. Simmering agreed, adding that the long range plan is for O Street to become a four-lane road in that area and that is possibly when that speed limit would be reduced.

Sunderman confirmed that NDOR controls the access, but he wondered whether all access points would remain when O Street becomes four lanes. Simmering stated that there would be one access point between the Hillcrest Golf Course and Anthony Lane. The other two would be removed. At that time, that access would have both right and left turn pockets built. The access would be on the north side.

Harris inquired about the reasons for denying the special permits at this location in 1998. Barnes explained that there was a special permit for a garden center and one for a limited landfill. Some of it had to do with opposition from surrounding properties, but beyond that he did not have any further details.

Harris noted the condition to update the parking calculations to reflect the number of persons in the development. How does that work? Barnes explained that the density that was calculated for this special permit is based on the number of persons. Because there is a mix of unit-type (independent, assisted living and memory care), there is more flexibility as people move in and out, so we just put a cap on the number of people instead of the

number of units. The table currently shows parking per dwelling unit. The applicant is being asked to update that table to account for the density and the number of persons rather than dwelling units. Harris inquired about staff parking at the facility. Barnes acknowledged that the staff parking would be figured in as well.

In regard to annexation in general, Beecham wondered whether there is a policy regarding construction of sidewalks at the time of annexation. Barnes stated that when an area is annexed, the existing improvements on the whole are considered, including the roadways and utilities. It is the platting and building permits that typically trigger sidewalks.

Response by the Applicant

In response to the opposition to the height waiver, Huston showed a conceptual rendering from the western perspective, where the structure was reduced from four stories to three stories. From the eastern perspective, the structure is being fit into the grade so that it is really a two-story structure because of the slope of the property. Thus, he submitted that the developer has tried to address the height. It is some of the architectural features that impact the height.

With regard to access, Huston stated that the developer did meet with NDOR and they are required to consolidate both the driveway and the public street at a common point to match up with 95th Street on the north. NDOR has done a preliminary design, but it is not within their immediate budget. This will be done only when additional funding is available. But, at some point, those access points will be consolidated, eliminating the Anthony Lane and the Hillcrest access points.

In response to the concerns about the speed limit, Huston advised that there have been discussions about decreasing the speed limit with Southeast Community College and LPS (the new career center with LPS is under construction near Southeast Community College).

With regard to trip generation, Huston stated that the traffic study indicates there will be a total of 16 vehicles at the am peak period, and 26 vehicles at the pm peak period, which is less traffic than generated by a single family dwelling neighborhood.

Huston also pointed out that there are a lot of natural volunteer trees that will be retained and the developer will enhance the screening along the western border. The floodplain area will be separately platted and the trees will be maintained.

Huston estimated that it would be about 1/4 mile from the facility's parking area on the sidewalk over to the street.

Huston also pointed out that the new right turn lane constructed by NDOR is one of those offset deceleration lanes so that any exiting traffic can see. It provides ample deceleration room for exiting traffic.

ANNEXATION NO. 14007

ACTION BY PLANNING COMMISSION:

December 10, 2014

Cornelius moved approval, seconded by Scheer.

Cornelius stated that his comments address all three applications. He appreciated hearing from the neighbors and it seems the primary concern is traffic. A key factor in the question of traffic is the presence of the deceleration lane that mitigates a lot of the 60 mph speed limit on O Street. The level of traffic generated by this facility is likely to be less than would be generated if the area were developed into single family units, not unlike what is there already. Thus, the traffic impact will be minimal. He sees no reason not to support this package.

Lust indicated that she will also support the package, adding that she is sensitive to neighbors who really enjoy outlots and the natural beauty, but as the Commission has seen repeatedly, it is always problematic when people take ownership of outlots they don't actually own. We must keep in mind when there is a vacant property adjacent, that it can be appropriately developed in the future, like in this case. She believes this development is appropriate for this particular lot.

Beecham stated that she appreciates that the applicant will keep as much of the natural area in place as possible; she also appreciates the neighbors coming down to discuss the bus stop situation because safety is a paramount concern. She suggested that with a couple of calls to the Lincoln Public School District, perhaps that bus stop could be moved to alleviate some congestion.

Corr appreciates the concerns for the speed limit. She is concerned every day because when driving to work she sees students pulling out from SECC in front of cars going 60 mph. She appreciates the right turn lane, but the access road will alleviate some of that as well by consolidating the two entry points in the future. She will support the project because there will not be as much traffic as a single family development.

Motion for approval carried 9-0: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust voting 'yes'. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 14032

ACTION BY PLANNING COMMISSION:

December 10, 2014

Weber moved approval, seconded by Cornelius and carried 9-0: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 14052

ACTION BY PLANNING COMMISSION:

December 10, 2014

Hove moved to approve the staff recommendation of conditional approval, as amended, seconded by Beecham and carried 9-0: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

TEXT AMENDMENT NO. 14017,
CHAPTER 27.63 OF THE LINCOLN MUNICIPAL
CODE REGARDING MAXIMUM HEIGHT IN THE
AG AGRICULTURE DISTRICT.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 10, 2014

Members present: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust.

Staff recommendation: Approval.

There were no ex parte communications disclosed.

Staff presentation: **Sara Hartzell of Planning staff** presented the proposed text amendment, which as originally submitted would have been a wholesale change to the AG District height to increase it to 45 feet. On the face, that does not seem to be unreasonable because AG lots are larger and setbacks are larger; however, we have to be mindful that AG is often a district that becomes residential in the future and annexed into the city. When that happens those existing dwellings may be retained on smaller lots.

Therefore, Sara explained that this text amendment changes the code to require a special permit to exceed or increase the maximum height for a permitted use in the AG district. This special permit exists in many of the other districts. As a special permit, it is mapped and tied to the land. When the land comes forward for further action, the special permit increasing the height would be something that would be part of the research and would give the opportunity to provide the appropriate setbacks. The special permit lets us look at each one on a case-by-cases basis and be able to tell with the proposed building site whether we are going to provide adequate setback to provide adequate space between structures.

The other part of the proposed text amendment is in the AG height table. Prior to 1979, all of the lots in the rural and public use area had a height restriction of 35'. Lots used to be allowed be one acre. In 1979, when the zoning ordinance was updated, the new zoning split AG into two districts, i.e. AG and AGR. At the same time, there were changes made in the residential districts. AGR was set at 30' and farmstead splits in the AG were set at 30', but all other residential were either 35' or higher. She did not know why. There was a request in 1993 to change the AGR height from 30' to 35' with the statement that it would match the other R districts. That was approved; however, the little piece that sets the farmstead split at 30' was not included in that application. That does not make a lot of sense, so this change would be a clean-up with the height at 35'.

Proponents

1. **Dave Johnson**, Studio 951, 800 P Street, appeared as the applicant. He had two clients show up, each wanting to build a house in sort of a castle look and they wanted some fairly taller towers that just exceeded the height restriction a little bit. Johnson stated that he worked with the staff and they looked at a lot of mechanisms and he is happy with the proposed special permit process, making it very specific to the lot and protecting future development.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

December 10, 2014

Scheer moved approval, seconded by Beecham.

Lust stated that she is always happy when we are cleaning things up that don't seem to make a lot of sense and she is happy to support the consistency.

Motion for approval carried 9-0: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 14047
TO EXCEED THE MAXIMUM HEIGHT IN THE
AG AGRICULTURE DISTRICT,
ON PROPERTY LOCATED AT
7201 NORTH 7TH STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 10, 2014

Members present: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust.

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

Staff presentation: **Sara Hartzell of Planning staff** advised that the subject site is just north of Lincoln and not in one of our future growth tier areas. It is close to the city but it is problematic for sewer service. There is a house existing on the lot that will be demolished and removed. The new house being proposed to be built has an architectural feature (tower type) and because of the way heights are calculated, it became a little less than 4' over the maximum height of 35'. This application is to allow exceeding the maximum height and defines the area within which that height may be exceeded, i.e. 200' from all of the adjacent property lines. Staff recommends that what is shown be a conceptual site plan for the house, and is recommending that the height be allowed up to 45' because changes in grade or plans could cause a slight differentiation in the height.

Proponents

1. Dave Johnson, Studio 951, 800 P Street, appeared on behalf of the applicant and agreed with Hartzell's presentation. For clarification, he pointed out that the existing house goes downhill to where the new house will be constructed such that the new house will be 20 feet lower than the existing house. The tower will actually be shorter than the roof of the existing house.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

December 10, 2014

Hove moved to approve the staff recommendation of conditional approval, seconded by Weber.

Cornelius observed that there appears to be sufficient separation and future separation from potential residential development, so the additional height will not have an impact on future neighbors.

Motion for conditional approval carried 9-0: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust voting 'yes'. This is final action unless appealed to the City Council within 14 days.

SPECIAL PERMIT NO. 14049
TO EXCEED THE MAXIMUM HEIGHT IN THE
AG AGRICULTURE DISTRICT,
ON PROPERTY LOCATED AT 13760 YANKEE HILL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 10, 2014

Members present: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust.

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

Staff presentation: **Sara Hartzell of Planning staff** explained that this application to exceed the maximum height is on Yankee Hill Road, with 134th Street to the west and Yankee Hill Road to the south, within the 3-mile jurisdiction. The staff is again recommending that the site plan as shown be conceptual. There is 200' setback on two sides. The 60' setback is the same owner's property and is the typical setback for AG. It is the architectural feature in the center of the building that requires the height variation.

Proponents

1. **Dave Johnson**, Studio 951, 800 P Street, appeared on behalf of the applicant to answer any questions.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

December 10, 2014

Beecham moved to approve the staff recommendation of conditional approval, seconded by Scheer.

Lust believes that this is an appropriate waiver for the area.

Motion for conditional approval carried 9-0: Scheer, Harris, Cornelius, Beecham, Corr, Sunderman, Weber, Hove and Lust voting 'yes'. This is final action unless appealed to the City Council within 14 days.

SPECIAL PERMIT NO. 14051
TO EXCEED THE MAXIMUM HEIGHT IN
THE B-4 LINCOLN CENTER BUSINESS DISTRICT
ON PROPERTY LOCATED AT
CANOPY STREET AND N STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 10, 2014

Members present: Harris, Cornelius, Beecham, Corr, Sunderman, Weber, and Hove; Lust left during this hearing; Scheer declared a conflict of interest.

Staff recommendation: Conditional Approval.

There were no ex parte communications disclosed.

Staff presentation: **Ed Zimmer of Planning staff** stated that this is a site at the corner of N Street and Canopy or Canopy Street and O Street, immediately adjacent to the LumberWorks parking garage, which is a key factor in shaping the proposal. The request is to exceed the 75' height limit in the B-4 Lincoln Center Business District in that area. The applicant is request 105' principally for one room on top of the building. This is a seven-story building, six of which fit within the 75' height limit. The seventh story requires 85' to 90', and the applicant is requesting up to 105' to put an amenity room/community dining room on the top. It will be a mixed-use building with retail on the ground floor, assisted living on middle floors and senior independent living on the top floors with rooftop decks. The key feature is the dining room at the top of the building.

Zimmer suggested that the key factors to consider in this request are its position on O and Canopy Streets, and it is an entryway building for the eastbound travelers into the Downtown. The architectural feature organizes that facade and gives it a strong presence on that entryway.

Zimmer also pointed out that the B-4 district has lots of different heights, e.g., 275 feet is allowed in the core Downtown area, and as close as 9th Street in this location. Our tallest building, except for the Capitol, is the US Bank Building at about 220 feet. Most of the area west of 9th Street is 75 feet in height, but a portion of the West Haymarket development is 100 feet and up near the Arena.

Zimmer noted that there is one letter in opposition, pointing out that the Integrated Development Plan (IDP) talked about a 3:1 ratio being the nice ratio for building height to street width, which would suggest 40 feet in height on this site. The 3:1 ratio has not been used elsewhere in the Haymarket except possibly in the Railyard area. We are far in excess of the 3:1 ratio on the buildings immediately south of the Arena, and the Arena itself. Lots of Downtown buildings exceed that ratio as well. An application can make this type of application anywhere in the B-4 district. The IDP, the Downtown Master Plan and the Comprehensive Plan all encourage downtown housing and a mix of housing types. This would be one of the few downtown offerings for a senior population, and that is a desirable characteristic.

Zimmer then pointed to the conditions of approval, suggesting that this architectural design be part of a redevelopment agreement which is currently being negotiated. That way we know that we have good public input into the final design. We know already that we are seeing a good quality building, but we will get that through the redevelopment process.

Beecham wanted to know the height of O Street at this location. Zimmer suggested that it would be at about the second story level.

Beecham then inquired as to the nearest historically significant building. Ed observed that the key buildings in this vicinity are at the corner of 8th and O, where there are four- and five-story buildings, the tallest being the Grainger Building at the northwest corner. The

southeast corner and southwest corner are four-story buildings. The sharper grade is certainly from 8th Street up to 9th Street. This is also right at the edge of the Salt Creek floodplain, so they cannot put some of their mechanical features in the basement.

Beecham stated that she participated in the IDP committee where there was significant discussion about what we were trying to do in West Haymarket, i.e., not trying to re-create it. She asked Zimmer to address the thoughts behind the IDP. Zimmer believes that there were lots of good ideas. The IDP emphasized that this West Haymarket area have a distinct modern character but one compatible with the adjacent historical district. Within the IDP illustrations, there are some taller buildings. This site is interesting in that it is on the east side of Canopy Street – not on the west side – part of the plan would be to use the remaining elements of the physical canopy structure. It is somewhat on the Haymarket side but also within the new development package, and it is land owned by the JPA. It is a pivotal building and it has a unique role.

Beecham asked whether the redevelopment plan is reviewed by the Historic Preservation Commission (HPC). Zimmer advised that this project itself and the design have been to reviewed by HPC twice, and they recommended approval as compatible for that location. HPC is not reviewing it in their role as a landmark district. Their review is in lieu of the Urban Design Committee review because of its proximity to the Haymarket.

Proponents

1. Carl Groesbeck, testified as **President of Argent Development Company**, the developer of the building chosen through the RFP process. One of the challenges of this site is that it is very narrow – almost precluding a double-loaded corridor and things that help with the economy. One of the reasons this building is going more vertical than perhaps otherwise, is that it has potential to bring diversity into the Downtown. Argent is also part of the development team doing Block 68. As a developer, Argent is very conscientious of not only good design and context in the urban environment, but “we are urban developers”.

Groesbeck went on to state that this will be a seven-story building with an eighth story as a partial amenity, both as a significant piece of the marketing and because of the approach of O Street in Downtown. This is a gateway project. We are requesting the height waiver to get to the mass of units needed (100) for a retirement community. The memory care aspect will come later down the line. This is more for the active or semi-active seniors who want to enjoy both the Downtown and the Downtown environment, and the University. We also see that the more residential we can bring into the Downtown, the greater chance for the development of substantial retail downtown. One of our challenges is the floodplain and the building actually has to be a little higher off the street than we would like. Secondly, Block 68 has moved very quickly. There are some depth issues with the structure that need to be accommodated. This will be about 10 feet below 8th Street, and

about 23 feet below 9th Street. While the grade drops off, the impact of being above the 75 feet really isn't as substantial as it would be if we were on a flatter section of the Downtown.

Groesbeck also pointed out that a good amount of retail has been put on the ground floor as a part of this project, which also raises the residential up. The retail surrounding the building is an important contribution. We get a very nice connection into the heart of the Haymarket.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

December 10, 2014

Beecham moved to approve the staff recommendation of conditional approval, seconded by Weber.

As a previous preservation association person, Beecham stated that she participated in the IDP for the West Haymarket. It is notable to point out that we are not trying to create an extension of the Haymarket with the West Haymarket. We are kind of stitching new and old together. Because we have O Street at a higher level here, she thinks this works in this location. She also expressed appreciation for the HPC minutes being included in the staff report.

Hove believes this is a good project and he applauded the developer for what they have done.

Motion for conditional approval carried 7-0: Harris, Cornelius, Beecham, Corr, Sunderman, Weber and Hove voting 'yes'; Lust absent; Scheer declared a conflict of interest. This is final action unless appealed to the City Council within 14 days.

There being no other business to come before the Commission, the meeting was adjourned at 3:00 p.m.

Please note: These minutes will not be formally approved by the Planning Commission until their regular meeting on January 7, 2015.